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Subject: Microsoft Settlement

As a long-time computer user at home and in business, I was appalled to read details of the recently announced settlement proposal in the Microsoft antitrust case. This proposal does not serve the interests of consumers or of open competition. The proposed settlement leaves Microsoft's illegal monopoly power in place, is full of poorly defined language and potential loopholes, provides for no redress of past wrongs on the part of Microsoft, has no meaningful enforcement mechanism (if Microsoft does not abide by the terms of the settlement, those terms will continue to apply for two more years), and does not provide sufficient outside oversight of Microsoft's business practices (a sequestered three-person oversight committee, with Microsoft having veto power on public disclosure of non-compliance issues).

Microsoft has never acknowledged any wrongdoing, despite District Court findings that were upheld unanimously in the Court of Appeals. Microsoft has a dismal record of compliance with previous consent agreements, and continues to maintain and extend its monopoly power with Windows XP and its bundled products and services. I have absolutely no confidence that the proposed "remedies" will reduce Microsoft's predatory practices.

Even as the court case and settlement discussions have gone forward, Microsoft has radically revised its pricing models, imposing much higher licensing costs on organizational customers, many of whom are essentially "locked into" using Microsoft products and have no effective alternatives. The "applications barrier to entry" remains firmly in place.

The events of September 11 and Judge Kollar-Kotelly's strongly expressed interest in rapid closure should not be an excuse for complete capitulation to a guilty party. A settlement on these terms causes more harm than continuing litigation.

I have read dozens of editorials and opinion pieces in print and online media which characterize the proposed settlement as vague, meaningless, riddled with escape clauses, a "slap on the wrist" or an outright victory for Microsoft.

Here are some suggestions for additional constraints to consider:

1. Each of Microsoft's existing APIs, protocols and file formats (for all of its software products) should be made freely available to the public, not just to a narrowly defined class of OEMs and software producers. New or modified APIs, protocols and formats should be publicly posted well before they are incorporated into new software releases (perhaps in advance of the first beta distribution). Each instance of incomplete or untimely compliance should result in a substantial fine.

2. Microsoft should have no authority over computer OEM decisions re the PC desktop, its layout and contents. Why are the PC manufacturers not considered Microsoft customers, rather than mere delivery boys for the "Windows experience?"

3. Microsoft software applications or functions which have no bearing on the basic operation of the PC computer system (e.g. web browsers, music and video editors/players, photo print ordering) should be completely severable/removable from the Windows installation, and function as standalone applications only.

Thank you for your consideration. I will continue to follow the resolution of this case with great interest.

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